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10/056,262	01/23/2002	Peter L. Sirota	REAL-2006011 (RN66)	8572
61857 7590 12/09/2008 AXIOS LAW GROUP, PLLC / REALNETWORKS, INC 1525 FOURTH AVENUE SUITE 800 SEATTLE, WA 98101				
EXAMINER HONG, HYUNJ				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/056,262

**Applicant(s)**

SIROTA ET AL.

**Examiner**

Hyun J. Hong

**Art Unit**

2426

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-893)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION*****Response to Arguments***

2. **Regarding claim 1**, applicant argues that Kawai does not disclose asynchronously caching a plurality of advertisements. Examiner respectfully disagrees. Kawai teaches that a user can asynchronously view ads (col. 14 lines 8-35). When a user selects a stored ad to be viewed, the data must temporarily be stored in some sort of cache in order to be displayed. Therefore, Kawai's disclosure teaches the asynchronous caching of a plurality of ads.

Applicant also argues that the Kawai and Blasko cannot be combined with each other. Examiner respectfully disagrees. The processing/targeting of ads in Blasko is performed at the client's end ([0014]). Blasko also discloses that his invention can be performed with any "well known means of communicating data" including local multipoint distribution systems and digital broadcast satellites ([0024]). The invention of Kawai is similar to Blasko in that the ads are received in an ad-specific channel and then processed at the client's end for display (col. 7 lines 1-9). Blasko does not require a two-way cable system to function; the processing is performed in the set-top box.

**Regarding claim 7-9, 31-33, 50-52**, arguments are moot in view of new grounds of rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

4. Claims **1-9, 11-19, 21-33, 35-43, and 44-52** are rejected under 35 U.S.C. 103(a) as being unpatentable over Blasko et al. (US 2002/0083435 A1) in view of Swix et al. (US Patent 6,718,551 B1) and Kawai (US Patent 7,200,853 B2) in view of Aharoni (US Patent 6,014,694).

Regarding **claims 1 and 25**, Blasko teaches an apparatus (subscription system 20 -fig. 1) (and corresponding method) comprising: storage medium (RAM) having stored therein programming instructions (par. 23, lines 4-12; par. 34-35; par. 39, lines 7-15; par. 49, lines 1-3; par. 31, lines 4-7) designed to enable the apparatus to cache (store in advance) a plurality of advertisements of various time lengths (par. 28; par. 30,, lines 11-12; par. 35, line 5-par. 36, line5), and synchronously render one or more of the cached advertisements during an advertisement time slot (avail) of a streaming program (par. 51, lines 1-6; par. 53), to effectively substitute (replace) advertisements with the cached ads, if any, included in the streaming program for rendering during the advertisement time slot (par. 26-par. 27); and at least one processor coupled with the storage

Art Unit: 2426

medium to execute the programming instructions (par. 34-35). Blasko further teaches ad insertion information sent to the head end/advertiser (par. 54; par. 37), ads received by the user based on a user profile (determination of the person type) (par. 56, lines 5-15; 322 - fig. 2) [The examiner interprets the claimed profile of a user of client system to be analysis information representing characteristics of the user which reads on Blasko's user information that is a determination of person type, i.e., characteristics of the user (including demographic information [par. 56, lines 6-9] further more item 322 of fig. 2 clearly teaches a profiling module in the client system], targeting ads towards a certain audience (par. 33, lines 10-14).

However, Blasko fails to disclose provision of advertisement publisher with a profile of the user of client system at a time prior to streaming of a program; and then caching at a client cache, a plurality of advertisements .... prior to streaming of a program (as amended). In an analogous art, Swix teaches an interactive video delivery system to further include advertisement publisher with a profile of the user of client system for selective insertion of advertisements based on the user profile and the step of building a user profile is done prior to streaming/delivering a program as well as the advertisements are cached at the client cache (refer to Fig. 2 for the flow process that the user profile is collected prior to deliver streaming program; and col. 4/lines 66-col. 5/line 21, col. 8/line 55 to col. 9/line 31 for building a user profile(s); and col. 9/line 65 to col. 10/line 19 for details of Figure 2; and col. 11/lines 34-57 for advertisements are stored in the client cache). Therefore it would have been obvious to one of ordinary skill in

Art Unit: 2426

the art to modify the system of Blasko to include the further features of advertisement publisher with a profile of the user of client system for selective insertion of advertisements based on the user profile prior to delivering the streaming program as taught by Swix for the added advantage of optimally customizing a subscribers data stream by analyzing content preferences and demographic profiles such that advertisements can target to appropriate users.

Blasko and Swix do not further mention the advertisements are asynchronously caching (or buffering) at a client cache/memory, and the advertisements are being of various time lengths contemporaneous with streaming of a program (at different rate with the programs) as amended; however, Kawai teaches the same technique in an electronic program guide, advertisement contents are delivered to the receiving device asynchronously, and the advertisements are contemporaneous with the streaming of the program (refer to col. 14/lines 8-35 & Figs. 3, 11 & 12 for advertisements and programs in packets are combined at different rates for the user to view at the display, as the advertisement is known as a spot advertisement during the broadcasting program, col. 10/line 23 to col. 11/line 61 for details). Therefore, it would have been obvious to one of ordinary skill in the art to modify Blasko and Swix's system with the disclosed technique of Kawai's in order to obtain an enhanced advertising system that a plurality of advertisements are asynchronously caching (or buffering) at a client cache/memory, and the advertisements are being of various time lengths contemporaneous with streaming of a program.

Art Unit: 2426

Regarding **claims 2 and 26**, Blasko in view of Swix teach obtaining the cached ads for targeting the user client system (Blasko - par. 3, lines 10-12; par. 60, lines 4-6; Rand- par. 11; par. 20, lines 1-5; par. 22) based on the profile (Blasko -par. 56, lines 5-15; 322- fig. 2).

Regarding **claims 3 and 27**, Blasko in view of Swix teach the profile of the user of client system comprises selected ones of a plurality of demographic and interest (preference) characteristics of the user (Blasko-par. 11 ; par. 20, lines 195; par. 22).

Regarding **claims 4 and 28**, Blasko in view of Swix teach the profile of the user of client system comprises geographic (region) information of the user (Blasko-par. 11; par. 20, lines 5-7; par. 22, lines 6-8).

Regarding **claims 5 and 29**, Blasko in view of Swix teach the programming instructions are designed to enable the apparatus to receive the advertisements of various time lengths from the advertisement publisher (Blasko-par. 31, lines 11-13; par. 36, lines 6-8).

Regarding **claims 6 and 30**, Blasko in view of Swix teach the programming instructions are designed to enable the apparatus to receive locations (advertisement resource locators) of the advertisements of various time lengths from the advertisement publisher, and retrieve the advertisements of various time lengths from the locations (Blasko-par. 31, lines 7-13; par. 48).

Regarding **claims 7, 31 and 50**, Blasko teaches an apparatus (subscription system 20- fig. 1) (and corresponding method) comprising: storage medium (RAM) having stored therein programming instructions (par. 23, lines 4-

Art Unit: 2426

12; par. 34-35; par. 39, lines 7-15; par. 49, lines 1-3; par. 31, lines 4-7) designed to enable the apparatus to cache a plurality of advertisements of various time lengths (par. 28; par. 30, lines 11-12; par. 35, line 5-par. 36, line 5), and synchronously render one or more of the cached advertisements during an advertisement time slot (avail) of a streaming program (par. 51, lines 1-6; par. 53), to effectively substitute (replace) advertisements with the cached ads, if any, included in the streaming program for rendering during the advertisement time slot (par. 26-par. 27); and at least one processor coupled with the storage medium to execute the programming instructions (par. 34-35).

However, Blasko fails to disclose provision of advertisement publisher with a profile of the user of client system at a time prior to streaming of a program; and then caching at a client cache, a plurality of advertisements .... prior to streaming of a program (as amended). In an analogous art, Swix teaches an interactive video delivery system to further include advertisement publisher with a profile of the user of client system for selective insertion of advertisements based on the user profile and the step of building a user profile is done prior to streaming/delivering a program as well as the advertisements are cached at the client cache (refer to Fig. 2 for the flow process that the user profile is collected prior to deliver streaming program; and col. 4/lines 66-col. 5/line 21, col. 8/line 55 to col. 9/line 31 for building a user profile(s); and col. 9/line 65 to col. 10/line 19 for details of Figure 2; and col. 11/lines 34-57 for advertisements are stored in the client cache). Therefore it would have been obvious to one of ordinary skill in the art to modify the system of Blasko to include the further features of



Art Unit: 2426

advertisement publisher with a profile of the user of client system for selective insertion of advertisements based on the user profile prior to delivering the streaming program as taught by Swix for the added advantage of optimally customizing a subscribers data stream by analyzing content preferences and demographic profiles such that advertisements can target to appropriate users.

Blasko and Swix do not further mention the advertisements are asynchronously caching (or buffering) at a client cache/memory, and the advertisements are being of various time lengths contemporaneous with streaming of a program (at different rate with the programs) as amended; however, Kawai teaches the same technique in an electronic program guide, advertisement contents are delivered to the receiving device asynchronously, and the advertisements are contemporaneous with the streaming of the program (refer to col. 14/lines 8-35 & Figs. 3, 11 & 12 for advertisements and programs in packets are combined at different rates for the user to view at the display, as the advertisement is known as a spot advertisement during the broadcasting program, col. 10/line 23 to col. 11/line 61 for details). Therefore, it would have been obvious to one of ordinary skill in the art to modify Blasko and Swix's system with the disclosed technique of Kawai's in order to obtain an enhanced advertising system that a plurality of advertisements are asynchronously caching (or buffering) at a client cache/memory, and the advertisements are being of various time lengths contemporaneous with streaming of a program.

However, Blasko in view of Swix in view of Kawai do not specifically disclose retrieving in an adaptive manner to minimize interference with a

Art Unit: 2426

discernable quality, from the client system's perspective, of the contemporaneous receiving and rendering of said streaming program on said client system.

In analogous art, Aharoni discloses retrieving in an adaptive manner to minimize interference with a discernable quality, from the client system's perspective, of the contemporaneous receiving and rendering of said streaming program on said client system (col. 2 lines 10-29).

It would have been obvious to combine the adaptive retrieval of Aharoni into the system of Blasko in view of Swix in view of Kawai. This would enable the transmission of video data to dynamically adapt to changing bandwidths.

Regarding **claims 8, 32 and 51**, Blasko in view of Swix in view of Kawai in view of Aharoni teaches the programming instructions are designed to enable the apparatus to include as part of the performance of said adaptive retrieving, monitoring at least one of a late arrival rate, a loss rate, and a resend rate of data packets associated with said streaming program to determine whether asynchronously retrieving said plurality of advertisements is interfering with said discernable quality (col. 13 lines 37-53 of Aharoni).

Regarding **claims 9, 33 and 52**, Blasko in view of Swix in view of Kawai in view of Aharoni teaches said programming instructions are designed to enable the apparatus to include as part of the performance of the adaptive retrieving, adjustment of a download rate at which said plurality of advertisements are asynchronously retrieved (col. 16 lines 30-40 of Aharoni).

Regarding **claims 11 and 35**, Blasko in view of Swix teach the programming instructions are further designed to enable the apparatus to receive a notification of the advertisement time slot (avails) (Blasko-par. 26; par. 27; par. 31, line 11-par. 33, line 5), including the advertisement time slot's time length (Blasko-par. 35, lines 5-6; par. 36, lines 8-25; 310 - fig. 2; par. 40, lines 8-14; par. 49; par. 51, lines 1-5).

Regarding **claims 12 and 36**, Blasko in view of Swix teach the programming instructions are designed to enable the apparatus to include as part of the performance of the receiving of a notification of the advertisement time slot, by having an advertisement module (304 - fig. 2) receives the notification from a player of the apparatus receiving and rendering the streaming program (Blasko-par. 40, lines 4-7 & 12-14; or par. 58-59; par. 23, lines 4-12; par. 25, lines 11-13).

Regarding **claims 13 and 37**, Blasko in view of Swix teach the programming instructions are designed to enable the apparatus to include as part of the performance of the receiving of a notification of the advertisement time slot, by having an advertisement module (304/310 - fig. 2) receive the notification from an operating system service (function module 302), of the apparatus receiving a streaming of event notifications (avail info) companion to the streaming program on behalf of a player (306/24) of the streaming program of the apparatus (Blasko-par. 40; par. 51, lines 1-5; par. 52-par. 53; par. 23, lines 4-12).

Regarding **claims 14, 23, 24, 38, 47, and 48**, Blasko in view of Swix teach the programming instructions are designed to enable the apparatus to include as

Art Unit: 2426

part of the performance of the receiving of a notification of the advertisement time slot, receipt of the notification from a broadcaster (headend/service provider) of the streaming program (Blasko-par. 27; par. 31, lines 4-6; par. 49; par. 51, lines 1-5; par. 23, lines 12-18).

Regarding **claims 15, 16, 39, and 40**, Blasko in view of Swix teach the programming instructions are designed to enable the apparatus to include as part of the performance of the synchronous rendering of one or more of the cached advertisements during the advertisement time slot, selection of one or more of the cached advertisements with their combined total time length at least equals to the advertisement time slot's time length (Blasko-par. 26; par. 48; par. 51, lines 1-5; par. 52-53).

Regarding **claims 17, 41, and 54**, Blasko in view of Swix teach the programming instructions are further designed to enable the apparatus to notify a publisher of an advertisement (central office/advertiser) when rendering commences (an ad is played) on the client system for the advertisement (Blasko-par. 37).

Regarding **claims 18, 42, and 55**, Blasko in view of Swix teach the programming instructions are designed to enable the apparatus to notify a publisher of an advertisement when rendering ceases (after an ad is played) on the client system for the advertisement (Blasko-par. 37; par. 54).

Regarding **claims 19 and 43**, Blasko in view of Swix teach the streaming program is a streaming audio program, and the advertisements are audio advertisements (Blasko-par. 59; par. 23, lines 5-9; par. 25).

Regarding **claims 21 and 45**, Blasko in view of Swix teach the streaming program is a streaming multi-media program (web page, electronic program guide, etc.) (Blasko-par. 23, lines 12-18; par. 25, lines 4-11; par. 38, lines 7-9; par. 59), and the advertisements (included in the streaming program) are multi-media (web page, EPG, etc.) advertisements (Blasko-par. 58, lines 5-9; par. 25, lines 8-11).

Regarding **claims 22 and 46**, Blasko in view of Swix teach the streaming program is a streaming television program, and the advertisements are television advertisements (Blasko-par. 23, lines 5-18; par. 25, line 3; par. 27; par. 58, line 9).

Regarding **claim 49**, Blasko teaches a system comprising: first server providing at least one of advertisements of various time lengths, and locations of advertisements of various time lengths to a client (par. 31, lines 11-13; par. 36, lines 6-8); second server (headend/service provider) providing a streaming program to the client, the streaming program having one or more advertisement time slots (par. 23, lines 12-18; par. 26-27; par. 38, lines 5-10); and the client (subscriber system) coupled with the first and second servers to cache (store in advance) the plurality of advertisements of various time lengths (par. 28; par. 30, lines 11-12; par. 35, line 5-par. 36, line 5), and synchronously render one or more of the cached advertisements during an advertisement time slot (avail) of a streaming program (par. 51, lines 1-6; par. 53), to effectively substitute (replace) the cached ads for advertisements, if any, included in said streaming program for rendering during the advertisement time slot (par. 26-par. 27).

However, Blasko fails to disclose provision of advertisement publisher with a profile of the user of client system at a time prior to streaming of a program; and then caching at a client cache, a plurality of advertisements .... prior to streaming of a program (as amended). In an analogous art, Swix teaches an interactive video delivery system to further include advertisement publisher with a profile of the user of client system for selective insertion of advertisements based on the user profile and the step of building a user profile is done prior to streaming/delivering a program as well as the advertisements are cached at the client cache (refer to Fig. 2 for the flow process that the user profile is collected prior to deliver streaming program; and col. 4/lines 66-col. 5/line 21, col. 8/line 55 to col. 9/line 31 for building a user profile(s); and col. 9/line 65 to col. 10/line 19 for details of Figure 2; and col. 11/lines 34-57 for advertisements are stored in the client cache). Therefore it would have been obvious to one of ordinary skill in the art to modify the system of Blasko to include the further features of advertisement publisher with a profile of the user of client system for selective insertion of advertisements based on the user profile prior to delivering the streaming program as taught by Swix for the added advantage of optimally customizing a subscribers data stream by analyzing content preferences and demographic profiles such that advertisements can target to appropriate users.

Blasko and Swix do not further mention the advertisements are asynchronously caching (or buffering) at a client cache/memory, and the advertisements are being of various time lengths contemporaneous with streaming of a program (at different rate with the programs) as amended;

Art Unit: 2426

however, Kawai teaches the same technique in an electronic program guide, advertisement contents are delivered to the receiving device asynchronously, and the advertisements are contemporaneous with the streaming of the program (refer to col. 14/lines 8-35 & Figs. 3, 11 & 12 for advertisements and programs in packets are combined at different rates for the user to view at the display, as the advertisement is known as a spot advertisement during the broadcasting program, col. 10/line 23 to col. 11/line 61 for details). Therefore, it would have been obvious to one of ordinary skill in the art to modify Blasko and Swix's system with the disclosed technique of Kawai's in order to obtain an enhanced advertising system that a plurality of advertisements are asynchronously caching (or buffering) at a client cache/memory, and the advertisements are being of various time lengths contemporaneous with streaming of a program.

Regarding claim 53 Blasko in view of Swix teach the client is equipped to provide a third server (ad server) coupled with the client, a user profile of a user of the client (par. 22 in which it would have been obvious to provide ad servers access to profiles for better targeting of ads).

5. Claims **10, 20, 34, and 44** are rejected under 35 U.S.C. 103(a) as being unpatentable over Blasko et al. (US 2002/0083435 A1) in view of Swix and Kawai as applied to claims 1 and 25 above, and further in view of Brown (US 6,950,623 B2) further in view of Aharoni (US Patent 6,014,694).

Art Unit: 2426

Regarding claims 10 and 34, Blasko teaches receiving the duration of the advertisements cached in advance (Blasko-par. 49). However, Blasko, Swix and Kawaii fail to disclose one of 30 seconds advertisements and 60 seconds advertisements. In an analogous art Brown teaches it is desirable to provide one of 30 seconds advertisements and 60 seconds advertisements for the purpose of replacing specified advertisements with equal length ads (fig. 6B - lines 5-10; fig. 10; col. 4, lines 40-47; col. 6, lines 50-55; col. 9, lines 16-36; col. 9, lines 50-51). Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the combined system of Blasko-Swix-Kawaii to include the limitation one of 30 seconds advertisements and 60 seconds advertisements for the purpose of replacing specified advertisements with equal length ads as taught by Brown for the advantage of optimizing successful payout of inserted ads by making sure they are not longer than the identified ad segment (Brown- col. 9, lines 26-27; Blasko - col. 3, lines 10-14 & par. 37, lines 6-10).

Regarding claims 20 and 44, Blasko teaches audio advertisements (Blasko - par. 59; par. 23, lines 5-9; par. 25); however Blasko fails to specifically disclose a streaming radio program. In an analogous art, Brown teaches it is desirable to provide a streaming radio program for inserting ads into it (col. 4, lines, 33-47; col. 3, lines 52-56; col. 3, lines 66-col. 4, line 4). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the combined system of Blasko-Swix-Kawaii to include the limitation a streaming radio program as taught by Brown for the



Art Unit: 2426

advantage of increasing advertisement opportunities and thus revenue for advertisers.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hyun J. Hong whose telephone number is (571)270-1553. The examiner can normally be reached on M-F (9:30a-7:00p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571)272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 2426

/H. J. H./

Examiner, Art Unit 2426

/Vivek Srivastava/

Supervisory Patent Examiner, Art Unit 2426